



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 23/11/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.12866 of 2020

1.P.Chinnathurai
2.Velammal

... Petitioners/Accused
Nos.2 and 3

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.
Crime No.19/2020.

... Respondent/Complainant

For Petitioners : Mr.P.Banu Prasath,
Advocate.

For Respondent : Mr.R.Erottuchamy,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER :-

For an Anticipatory Bail in Crime No.19 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A-2 & A-3 apprehending arrest at the hands of the respondent police for the offences punishable under sections 5 (j)(ii) r/w 6 of POCSO Act, 2012 and 9, 10 of Prohibition of Child Marriage Act, 2006, in Crime No.19 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that A-1 fell in love with the minor victim girl who is aged about 16 years and their marriage was solemnized by their family members on 13.05.2020. Thereafter, the victim girl got pregnant and now she is in eighth month of her pregnancy. While being so, the petitioners demanding dowry from the victim girl, had driven her out from the matrimonial home and failed to take care of her. Hence, the complaint.



3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent.

4. The learned counsel for the petitioners submitted that the petitioners are an innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that the petitioners are now ready and willing to take back the victim girl/defacto complainant and also ready to file an affidavit to that effect before the respondent police.

5. The learned Government Advocate (Criminal Side) submitted that the it is the matrimonial dispute. There is no dispute in respect of the marriage between the petitioner and the defacto complainant, but it is stated that the petitioner harassed the defacto complainant demanding dowry.

6. Considering the facts and circumstances of the case and also considering the fact that the petitioners are ready and willing to take back the victim girl, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Special Court for POCSO, Thoothukudi on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioners shall file an undertaking affidavit to take care of the victim girl without any condition before the respondent police;

(b) If the petitioners are failed to take care of the victim girl in future and if they made any dowry demand from the victim girl, the respondent police is directed to secure the petitioners and proceed in accordance with law;

(c) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioners shall report before the respondent police daily morning at 10.30 a.m., without fail, for a period of Two Weeks and thereafter as on when required for interrogation;



(e)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(f)the petitioners shall not abscond either during investigation or trial;

WEB COPY (g)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(h)if the accused/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
23/11/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE JUDGE, SPECIAL COURT FOR POCSO,
THOOTHUKUDI.
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIVAIKUNDAM,
THOOTHUKUDI DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.12866 of 2020
Date :23/11/2020

KSA

<https://hccr.csr.gov.in/Services/2020/3P/4C>